

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of NeuStar, Inc., as the North American Numbering Plan Administrator and on behalf of the Massachusetts telecommunications industry, for area code relief for the 413 area codes in Western Massachusetts.

D. T. E. 00-64

INITIAL COMMENTS BY AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

Introduction

AT&T Communications of New England, Inc., - on behalf of itself and its affiliated companies that provide telephony or telecommunications services in Massachusetts, including companies doing business within Massachusetts as AT&T Broadband and AT&T Wireless Services (collectively "AT&T") - submits these initial comments regarding the need for and timing of area code relief for the western Massachusetts LATA, which is currently served by the 413 area code.

AT&T respectfully urges the Department to adopt the all-services distributed overlay for the western Massachusetts LATA as recommended by the industry and filed by NeuStar, Inc., and to adopt an implementation schedule under which all switch reprogramming is completed by and a 12-month permissive dialing period may start on April 15, 2001. If the Department issues an area code relief order by November 15, 2000, the industry will receive the full six month network preparation period that it requested.

It is very important that the Department not delay adoption and at least initial implementation of an area code relief plan while it searches for NXX code conservation alternatives. Adoption of an overlay relief plan and commencement of a prompt implementation schedule will not irrevocably commit the Commonwealth or the industry to that entire implementation schedule. If code conservation efforts in the coming months make it possible to defer the need for a new area code in the current 413 NPA, the Department could then extend the length or even delay the start of the permissive dialing period. Consumers would not be inconvenienced by doing so.

Comments.

In asking for comment on the proposal by NeuStar for prompt implementation of an overlay area code in order to provide needed area code relief for the western Massachusetts LATA, the Department specifically requested comment on three questions, asking whether the overlay proposal will: (1) "facilitate entry into the communications marketplace by making numbering resources available on a timely and efficient basis;" (2) "not unduly favor or disadvantage any particular industry segment or group of consumers;" and (3) "not unduly favor one technology over

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another." See D.T.E. 00-64, Notice of Public Hearing (Sept. 7, 2000). The following comments address these issues.

I. To Ensure That Needed Numbering Resources are Available on a Timely Basis, the Department Should Order That Implementation of the Proposed Overlay Code Get Started Immediately.

So long as the Department adopts the overlay proposal filed by NeuStar quickly, so that the permissive dialing period may begin by mid-April of 2001, then the Department will have achieved the important goal of "facilitat[ing] entry into the communications marketplace by making numbering resources available on a timely and efficient basis."

Recent history in the eastern Massachusetts LATA demonstrates the danger of delaying initial work on an area code relief plan pending further investigation of code conservation efforts. If area code relief implementation is not started now, and either demand for numbering resources accelerates or code conservation efforts cannot be implemented quickly, or both, then western Massachusetts could face the actual exhaust of new NXX codes before implementation of area code relief can be completed. That could prove disastrous for Massachusetts consumers and for the telecommunications industry, and under governing FCC guidelines is an outcome that must be avoided.

A. Avoidance of NXX Code Exhaust is Critically Important.

The concern of actual NXX code exhaust in the 413 NPA is real, not theoretical. On May 23, 2000, NeuStar informed the Department and the industry that the 413 NPA is likely to run out of NXX codes no later than the third quarter of 2002. See D.T.E. 00-64, "Vote to Open Investigation" (Sept. 7, 2000). It is possible that this is unduly pessimistic, as this forecast does not reflect the return of 100 NXX codes in early June 2000. See Petition for 413 Overlay Relief Plan, filed by NeuStar on August 1, 2000, at 2 fn. 6 & Attachment #4 to Ex. A. On the other hand, experience in the eastern Massachusetts LATA has shown that such estimates by their nature are unlikely to be precise, and that actual exhaust can take place much more quickly than forecast. For example, in May 1999, Level 3 returned 164 exchange codes from the 508 and 617 area codes, leading to forecasts that the lives of those area codes would be extended through the first quarter 2002 for the 508 NPA and the second quarter of 2001 for the 617 NPA. See D.T.E. 99-11 at 11 (Order dated April 25, 2000). In fact, however, NeuStar announced the complete exhaust of all 508-NXX codes on March 24, 2000 (two full years earlier than had been anticipated), and announced the complete exhaust of all 617-NXX codes on August 25, 2000 (approximately 9 months earlier than anticipated).

B. The Initial Implementation of Area Code Relief for the 413 NPA Should Not Be Delayed Pending Investigation of Code Conservation Alternatives.

The safest and wisest course is for the Department to order all necessary switch reprogramming and other technical work, and the commencement of a permissive dialing period so that alarm companies and others may adapt their equipment to the existence of a new overlay code. The FCC has stressed that area code relief cannot be delayed in the hope that thousands-block pooling may conserve numbering resources in the future. See In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, Report and Order No. FCC 00-104, ¶ 171 (released March 31, 2000). This point applies to all avenues of potential NXX code conservation. As the FCC has explained, it would violate federal numbering policy to delay development and implementation of area code relief plans in a timely manner, sufficient to ensure that consumers are not "foreclosed from exercising their choice of carrier because that carrier does not have access to numbering resources." Id.

If NeuStar's current exhaust forecast can be extended through NXX code conservation efforts, then the permissive dialing period can be extended. Otherwise, full implementation of a new area code can proceed through termination of the permissive dialing period in a timely manner, without danger of running into actual code

exhaust for the current 413 NPA.

II. The Proposed Overlay Relief Plan is Fair and Sensible.

The all-services overlay proposed by the industry and submitted by NeuStar will satisfy the Department's stated criteria of "not unduly favor[ing] or disadvantage[ing] any particular industry segment or group of consumers," and "not unduly favor[ing] one technology over another." The Department should not consider any technology-specific overlay, as such a plan is barred by FCC rules and would violate these important criteria.

A. The Proposed Overlay Is the Most Efficient and Least Disruptive Area Code Relief Solution for the 413 NPA.

The Department's recent area code relief order for the eastern Massachusetts LATA nicely summarizes the advantages of an overlay solution, now that permanent local number portability has been implemented for wireline carriers. See Petition of Lockheed Martin IMS, the North American Numbering Plan Administrator, for area code relief for the 508, 617, 781, and 978 area codes in Eastern Massachusetts, D.T.E. 99-11, at 30-32 (April 25, 2000). The same would be true in the western Massachusetts LATA.

Use of the same overlay solution for the western Massachusetts LATA would have the added advantage of promoting statewide consistency in dialing patterns, switch configurations, and management of numbering resources.

B. A Technology Specific Overlay Is Anti-Competitive And Should Not be Considered By The Department.

It is unlawful to implement an area code overlay that excludes a group of telecommunications carriers from or segregates them into a particular NPA "based solely on the group's provision of a specific type of telecommunications service or use of a particular technology." 47 C.F.R. § 52.19(c)(3)(i). As the FCC correctly recognizes, a service-specific or technology-specific overlay plan is unreasonably discriminatory, inherently anti-competitive, and harmful to consumers. In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996, CC Docket 96-98 "Second Report and Order" No. FCC 96-333, (Aug. 8, 1996) ("Second Report and Order") ¶ 285. The Department has recognized that it lacks authority to order a technology-specific overlay. See D.T.E. 99-11/99-99 at 26-27, 33-34 (April 25, 2000).

Moreover, a technology-specific overlay would be harmful to consumers no matter how it is implemented. The most commonly thought of service-specific overlay is a wireless-only overlay. If such an overlay is implemented so that all wireless consumers, both existing and new, must be served from the new NPA, the overlay requires a "take-back" of existing numbers. Such a take-back would be very disruptive and confusing for Massachusetts consumers, because it would require not only that they obtain an entirely new telephone number, but also that they go to their carrier for reprogramming of their handset equipment. For the same reason, a take-back would be very expensive and burdensome for wireless carriers.

If the wireless-specific overlay is instead proposed only for new numbers, with existing customers allowed to retain their existing numbers, it would accomplish little in the way of area code relief. No meaningful relief for existing NPAs would be provided, because only the demand generated by new wireless customers would be removed. Because no additional numbers in the existing NPAs are made available, the exhaust dates for the existing NPAs are not significantly delayed. At best, the measure puts off for only a short time the need for area code relief.

Because service-specific overlays are inherently anti-competitive and poor solutions to area code jeopardy, and because they are for those reasons unlawful, the Department should not consider them a viable means of area code relief.

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Conclusion.

For the reasons stated above, AT&T respectfully urges the Department to adopt the all-services overlay relief plan proposed for the 413 NPA by NeuStar, and to order that all necessary switch reprogramming is completed by and a 12-month permissive dialing period will start on April 15, 2001.

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